

Application No.: 10/656,743
Amendment dated December 30, 2005
Reply to Office Action of September 30, 2005

REMARKS

The application was originally filed with claims 1-22. In response to a first office action claims 9 and 18 were canceled. In response to the current office action, claims 3, 6, 13, and 16 have been canceled, and claims 1, 4, 7, 11, 14, 17, 19 and 22 have been amended. Accordingly, claims 1, 2, 4, 5, 7, 8, 10-12, 14, 15, 17 and 19-22 are pending and at issue.

Allowed subject matter

Claim 22 has been allowed over the prior art of record. Accordingly, applicant has amended claims 22 to include the base claim and any interviewing claims.

Response to the §112 rejections

Claims 4, 7, 14 and 17 were rejected as indefinite under §112. Applicant respectfully disagrees, as VELCRO is known to have specific structure to those of ordinary skill in the art. However, in light of the ongoing rejection, applicant has amended claims 4, 7, 14 and 17 by replacing the term “VELCRO” with “hook and loop fastener.” No new matter has been added. (See page 3 line 24 - page 4 line 14). Withdrawal of the rejection under § 112 is respectfully requested.

Response to the §103 rejections

Applicant respectfully traverses the rejection of claims 1, 2, 5, 8, 10-12, 15 and 19-21 as obvious over U.S. patent 5,228,465 (“Hill”) in view of British reference GB 2 167 946 A (“Lowery”). Applicant respectfully submits that the combination of *Hill* and *Lowery* fails to teach or suggest all of the claimed limitations and a *prima facie* case of obviousness has not been established.¹

¹ "To establish a *prima facie* case of obviousness, ... there must be some suggestion or motivation ... to modify the references or to combine reference teachings ... [, and] the prior art reference (or references when combined) must teach or suggest all the claimed limitations. See MPEP § 2142.

Specifically, claims 1, 11 and 19 as amended recite "a first part of the fastener mechanism includes a plurality of loops disposed on one of the inner surfaces and a second part of the fastener mechanism is the bristles disposed on the other of the inner surfaces."

Hill fails to disclose and fails teach a device that uses the bristles of one of the inner surfaces as a portion of the fastening mechanism. Additionally, none of the references the examiner has combined with *Hill* teaches or discloses the above recitation alone or in combination with *Hill*.

In particular, *Hill* teaches a hair clamp 10 including a projection 38 disposed on a front portion 16 that is engaged by a recess 40 disposed on a rear portion 18 to close the clamp 10. *Hill* does not disclose or suggest using bristles or loops in the clamp 10, let alone bristles and loops that form parts of a fastener mechanism as recited by the claims.

Lowery discloses and teaches a hair treatment device having a handle 3 and brush sections 4, 5 disposed at ends thereof, but does not teach loops or other structures engaging bristles to function as a fastener mechanism as recited by claims.

Because neither reference discloses or suggests the use of bristles as part of a fastening mechanism, it follows that the claims are neither anticipated or rendered obvious.

Furthermore, neither *Hill* nor *Lowery* teaches, suggests, or provides any motivation for combining the references to arrive at the rejected claim.² In order to do so one of the references would have to first recognize the desirability of using the bristles in *Lowery* as part of the closing mechanism in the hair clamp of *Hill*. Neither reference does so.

The applicant, therefore, respectfully submits that a *prima facie* case of obviousness has not been established with respect to claims 1, 11 and 19, and that the obviousness rejection be withdrawn.

² "To establish obviousness based on a combination of elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." *In re Kotzab*, 217 F.3d 1365, 1370 (Fed. Cir. 2000).

Application No.: 10/656,743
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Applicant additionally traverses the remainder of the obvious rejections over *Hill* in view of *Lowery* further in view of one of GB 2371744 (“Rajwani”) and U.S. Patent No. 3,871,388 (“Leoci”). Applicant respectfully submits that a combination of *Hill* and *Lowery* with any of *Rajwani* or *Leoci* fails to teach or suggest all of the claimed limitations.

Specifically, each of the claims at issue include a body having a pair of inner surfaces disposed on opposing sides, wherein the sides are closed or connected with a fastening mechanism. In particular, a first part of the fastener mechanism includes a plurality of loops disposed on one of the inner surfaces and a second part of the fastener mechanism is the bristles disposed on the other of the inner surfaces.

As discussed previously, the combination of *Hill* and *Lowery* fails to disclose and fails to teach a device that uses the bristles of one of the inner surfaces as a portion of the fastening mechanism.

Rajwani discloses a device for selective hair treatment including two flexible impervious sheets 3, 4 joined along a common edge with hook-and-loop fastener 1, 2. Therefore, *Rajwani* discloses hook and loop fasteners near the edge of the device, but does not disclose hook fasteners disposed on an inner surface that, other than being used to fasten the device, are bristles of the device. Therefore, the combination of *Hill*, *Lowery*, and *Rajwani* fails to disclose and fails teach all of the claimed limitations.

Leoci discloses a hair dressing device including a pad 11 and cover 12 that are connected by a Velcro strip 16, 17. *Leoci* similar to *Hill*, teaches fastening mechanisms formed by components other than bristles and loops; therefore *Leoci* does not provide the teachings missing from *Hill*. Accordingly, the combination of *Hill*, *Lowery*, and *Leoci* fails to disclose and fails teach all of the claimed limitations.

The applicant, therefore, respectfully submits that the remainder of the obviousness rejections be withdrawn.

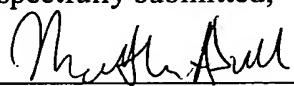
Application No.: 10/656,743
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CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the examiner is respectfully requested to pass this application to issue. Should the examiner have any questions or concerns regarding the claims, the examiner is respectfully requested to telephone the undersigned at (312) 474-9566 to discuss the same.

A fee of \$200.00 for the additional one independent claim over three is enclosed herewith. However, the Director is hereby authorized to charge any fee deficiency required by this paper, or credit any overpayment, to Deposit Account No. 13-2855.

Dated: December 30, 2005

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